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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,394	04/27/2006	Philip Marc Johnson	U02-0086296	1284
54494 7590 06/06/2007 MOORE AND VAN ALLEN PLLC FOR SEMC P.O. BOX 13706 430 DAVIS DRIVE, SUITE 500 RESEARCH TRIANGLE PARK, NC 27709			EXAMINER VO, HUYEN X	
			ART UNIT 2626	PAPER NUMBER
			MAIL DATE 06/06/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/577,394

Applicant(s)

JOHNSON ET AL.

Examiner

Huyen X. Vo

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments have been fully considered and are persuasive.

Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Willenegger (US 7076005).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Willenegger (US 7076005).

4. Regarding claims 1 and 6, Willenegger discloses a method of and receiver for channel decoding speech frames in a receiver capable of multiple (M) codes modes, said channel encoded speech frames comprised of an inband bit portion and a speech portion, said method comprising:

(a) decoding the inband bit portion of a received frame to obtain confidence levels associated with each of the M codec modes (*col. 1, line 62-67 together with col. 5, lines 25-67*);

(b) choosing the most likely codec mode based on the highest confidence level to channel decode the speech portion (*col. 5, lines 25-67*);

(c) decoding the speech portion of the received frame using the chosen speech codec mode (*col. 5, lines 25-67*);

(d) performing a frame determination check to determine the quality of the decoded speech frame (*col. 7, lines 1-9, inherently suggesting of some sorts of quality check*); and

(e) if the decoded speech frame is determined to be of poor quality, then choosing the next most likely codec mode 736 corresponding to the next highest inband bit decoding confidence level and repeating steps (c) through (e) (*col. 6, lines 43-52 and col. 7, lines 1-9*).

5. Regarding claims 6 and 12, Willenegger discloses a method of and receiver for channel decoding speech frames in a receiver capable of multiple (M) codec modes, said channel encoded speech frames comprised of an inband bit portion and a speech portion, said method comprising:

calculating a plurality of inband decode metrics, one for each speech codec mode (*col. 5, lines 25-67*);

partially decoding speech data for each speech codec mode (*col. 6, lines 53-58*);

determining the most likely speech codec mode based upon the partially decoded speech data and the calculated inband decode metric data (*col. 7, lines 1-9*); and resuming decoding of the speech data using the most likely speech codec mode (*col. 7, lines 1-9*).

6. Regarding claims 2, 4-5, 8, and 10-11, Willenegger further discloses that the steps (c) through (e) are repeated for a maximum number of iterations (N), where  $N \leq M$  (*col. 7, lines 1-19*), wherein the maximum number of iterations N is determined prior to choosing the most likely codec mode to decode the speech portion based on the highest confidence level (*col. 7, lines 1-19*), and wherein the maximum number of iterations (N) is set to the number of codec modes that exceed a threshold confidence level (*col. 7, lines 1-9*).

7. Regarding claims 3 and 9, Willenegger further discloses that the steps (c) through (e) are repeated so long as the confidence level for the inband bit decoding with respect to the current codec mode is above a threshold confidence level (*col. 7, lines 27-31*).

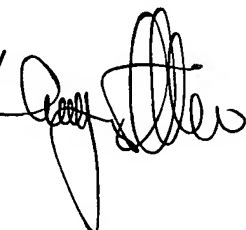
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen X. Vo whose telephone number is 571-272-7631. The examiner can normally be reached on M-F, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached on 571-272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HXV

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5/27/2007